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U.S. Application No. 09/751,809 Examiner Brown, Art Unit 2611
Response to January 5, 2007 Office Action

REMARKS

In response to the Office Action dated January 5, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited document to *Oko*.

Claims 6-9 and 19-20 are currently pending in this application. Claims 6, 9, and 19-20 are amended. Claims 1-5, 10-18, and 21-24 were previously canceled without prejudice or disclaimer.

The United States Patent and Trademark Office (the "Office") rejected claims 6-8, 9, and 19-20 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,947,966 to *Oko, Jr., et al.*

The Assignee shows, however, that *Oko* cannot anticipate the pending claims. The Assignee thus respectfully requests removal of the § 102 (e) rejection.

Rejection of Claims

The Office rejected claims 6-8, 9, and 19-20 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,947,966 to *Oko, Jr., et al.* A claim, however, is anticipated only if each and every element is found in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 6-8, 9, and 19-20 cannot be anticipated by *Oko*. These claims recite, or incorporate, features that are not taught or suggested by *Oko*. Independent claims 6 and 9, for example, similarly recite "*embedding alternative plots into channels*," receiving user votes for alternative plots, tabulating the votes, and "*based on the tabulation, send an instruction to switch to an alternate channel for a particular alternative plot*." Support for such features may be

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found in the as-filed application at page 9, lines 11-20, at page 4, lines 11-12, at page 23, lines 2-4, and at numerous other locations.

Oko does not teach or suggest such features. Examiner Brown is correct — *Oko* discloses how users may vote to determine the direction of a program. See, e.g., U.S. Patent 6,947,966 to *Oko, Jr., et al.* (Sep. 20, 2005) at column 2, lines 46-49. See also *id.* at column 2, lines 65-67, at column 3, lines 1-14, at column 3, lines 33-52, at column 6, lines 1-10, and at numerous other places. Yet nowhere does *Oko* disclose or suggest “embedding alternative plots into channels” and “based on the tabulation, send an instruction to switch to an alternate channel for a particular alternative plot.” Examiner Brown points to various passages of *Oko* as teaching these features, but the Assignee cannot agree. *Oko*, in fact, merely describes that modified programming is broadcast to users. *Oko* discloses no specifics as to how that modified programming is broadcast.

Oko provides an explanation. Users are polled to determine the direction of a program. See U.S. Patent 6,947,966 to *Oko, Jr., et al.* (Sep. 20, 2005) at column 2, lines 46-49, at column 2, lines 65-67, at column 3, lines 1-14, at column 3, lines 33-52, and at column 6, lines 1-10. “After the poll results have been made available to the content provider, the content provider then provides modified broadcast content to the network users.” *Id.* at column 5, lines 23-25. “Based upon the votes made, the various content providers will modify the content being sent to the viewing audience ... in real time or near real time.” *Id.* at column 6, lines 38-41. *Oko, et al.* explain that FIG. 4 represents a generalized architecture (e.g., a cable network and/or the Internet). *Id.* at column 6, lines 45-58. Content may be centrally, regionally, or nationally broadcast. *Id.* at column 6, line 60 through column 7, line 4. A network server may provide its own content, be connected to live studios, or other content providers. See U.S. Patent 6,947,966 to *Oko, Jr., et al.* (Sep. 20, 2005) at column 7, lines 5-19. A content provider may “have optional content 86, which can be presented to network users depending upon the poll of the network users.” *Id.* at column 7, lines 19-21. Other content providers may “make future plans for additional segments and/or productions ... desired by the network users.” *Id.* at column 7, lines 24-26.

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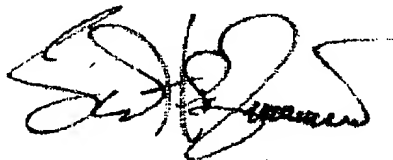
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Oko continues. Network users may be polled during a live studio broadcast, and their votes are tallied. *Id.* at column 7, lines 37-45. Results from the polls can “inform content provider 84 as to which optional content 86 is fed to the network users.” U.S. Patent 6,947,966 to *Oko, Jr., et al.* (Sep. 20, 2005) at column 7, lines 46-48. A “smart video server” receives programming from “various sources which have been modified in response to the polling.” *Id.* at column 8, lines 10-13. Live feeds or archived video can be served, based on voting. *See id.* at column 8, lines 14-16. *Oko* explains that polling may be used for “soap opera plot, series plot, [and] movie plot.” *Id.* at column 8, lines 53-55.

Oko, then, does not teach or suggest all the features of the pending claims. While *Oko* does disclose the polling of users to determine the direction of a program, *Oko* fails to disclose all the features of the pending claims. No where does *Oko* disclose or suggest “*embedding alternative plots into channels.*” No where does *Oko* disclose or suggest “*based on the tabulation, send an instruction to switch to an alternate channel for a particular alternative plot.*” As the above paragraphs show, *Oko* merely describes that modified programming is broadcast to users. *Oko* discloses no specifics as to how that modified programming is broadcast. Claims 6-8, 9, and 19-20, then, cannot be anticipated by *Oko*. The Assignee thus respectfully requests removal of the § 102 (e) rejection of claims 6-8, 9, and 19-20.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,



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